

REMARKS

This application has been carefully reviewed in light of the Office Action dated January 7, 2009. Claims 1, 5, 7 to 9, and 11 to 19 are in the application, with Claim 1 being independent. Claims 2 to 4 and 6 have been cancelled without prejudice. Claim 1 has been amended herein. Reconsideration and further examination are respectfully requested.

Claims 1 to 8 and 13 to 18 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,235,427 (Idota). Claims 9, 11, and 12 were rejected under 35 U.S.C. § 103(a) over Idota and further in view of U.S. Publication No. 2002/0146623 (Suzuki). Claim 19 was rejected under 35 U.S.C. § 103(a) over Idota and further in view of WO 2001/41249 (Nakanishi). These rejections are respectfully traversed.

Claim 1 recites, *inter alia*, (i) the particles of the solid state alloy have a microcrystal or amorphous material comprising an element other than silicon, dispersed in microcrystalline silicon or amorphized silicon, and (ii) the alloy has an element composition in which the alloy is completely mixed and has a single phase in a melted liquid state.

None of Idota, Suzuki, and Nakanishi, even in the proposed combinations, assuming, *arguendo*, that such could be combined, is seen to disclose or suggest at least the above-discussed features.

With respect to the above-discussed feature (i), the cited portions of Idota (col. 1, lines 47 to 60, and col. 3, lines 4 to 20), are merely seen to describe a silicon alloy capable of intercalating and deintercalating lithium. However, nowhere are the cited portions seen to disclose or suggest a microcrystal or amorphous material comprising an

element other than silicon, dispersed in microcrystalline silicon or amorphized silicon.

With respect to the above-discussed feature (ii), Applicants respectfully submit that in Idota, even if the alloy were melted, there is no guarantee that the alloy would be completely mixed.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from the independent claim discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

An Information Disclosure Statement is being submitted herewith, and consideration of the documents cited therein is respectfully requested.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,

/Damond E. Vadnais/
Damond E. Vadnais
Attorney for Applicants
Registration No. 52,310

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

FDHS_WS 3023503v1